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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 MATT M. ALTON,

8 Plaintiff,

9 v.

10 SNOHOMISH COUNTY CORRECTIONS, et
al.,

11 Defendants.

Case No. C17-674 JCC-BAT

**REPORT AND
RECOMMENDATION**

12 Matt M. Alton, who is presently confined at the Snohomish County Corrections (“SCC”),
13 filed a civil rights complaint against Snohomish County Corrections and the Snohomish County
14 Public Defenders Association. Dkt. 4. Mr. Alton alleged that the Snohomish County Public
15 Defender’s office is denying him the right to change his counsel. He claimed that he is in need
16 of a mental evaluation because his wife attacked him and he has been charged with her murder.
17 He also claimed that SCC is denying him outside counseling to help with his defense. *Id.*, p. 3.
18 Mr. Alton acknowledges that there is a grievance process in place at SCC but he has not
19 filed a grievance for “fear of abuse.” *Id.*

20 The Court declined to serve the complaint because Mr. Alton failed to name a proper
21 defendant, his claims against the state public defender and state governmental entities were
22 subject to dismissal, his challenge to his ongoing state criminal proceedings is barred by the
23 *Younger* abstention doctrine, he failed to allege facts sufficient to state a claim relating to his

1 conditions of confinement at the SCC, and it appeared he had not exhausted his administrative
2 remedies. Dkt. 5.

3 The Court granted Mr. Alton leave to file an amended complaint to cure, if possible, the
4 noted deficiencies. *Id.* Mr. Alton filed an Amended Complaint on May 23, 2017. In his
5 amended complaint, he asserts that he has filed a grievance and the grievance process is
6 completed. Dkt. 6, p. 2. The entirety of his amended claim is as follows:

7 Snohomish County Corrections are run by Snohomish County Sheriff Dept., as
8 the public defenders Association. The refusal of outside mental help on why my,
9 refusal of change of counsel saying I have no right to, and grievances on
10 complaint saying they have no power to change counsel, sent many kites (Jail
11 letter system) stating I have no confidence in counsel or trust, I fear of abuse as no
12 way of understanding on what happened that put me into jail as shock. No mental
13 help to help me understand, conterplate [sic], or to describe of whats happening in
14 my mental state. Medical evaluation.

15 *Id.*, p. 3. In his request for relief, Mr. Alton asks to “make a change, mental help, even counsel
16 and not rigging the system in a manner of no legal justice.” *Id.*, at 4.

17 Because Mr. Alton has failed to state a cognizable § 1983 claim, the undersigned
18 recommends that the Court dismiss the complaint without prejudice.

19 DISCUSSION

20 To sustain a civil rights action under § 1983, a plaintiff must show (1) he suffered a
21 violation of rights protected by the Constitution or created by federal statute, and (2) the
22 violation was proximately caused by a person acting under color of state or federal law. *See*
23 *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991).

24 A. Government Entities and Public Defender as Parties

25 Mr. Alton has failed to name a proper defendant. A state public defender performing
26 traditional lawyer functions is not a state actor. *Polk County v. Dodson*, 454 U.S. 312, 324-25,
27 102 S.Ct. 445, 70 L.Ed. 509 (1981); *Miranda v. Clark County*, 319 F.3d 465, 468 (9th Cir. 2002).

1 In addition, government entities such as the Snohomish County Public Defender Association,
2 and Snohomish County Corrections are not proper parties to a § 1983 complaint. *See Howlett v.*
3 *Rose*, 496 U.S. 356, 365 (1990). While Snohomish County is a municipality that can be sued
4 under § 1983, *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 690 (1978), Mr.
5 Alton fails to allege how the County’s employees or agents acted through an official custom,
6 pattern or policy that permits deliberate indifference to, or violates, his civil rights or that the
7 County ratified the unlawful conduct. *Monell*, 436 U.S. at 690–91.

8 **B. Challenge to Ongoing State Criminal Action**

9 Even if Mr. Alton could name a proper defendant as to his claims regarding his
10 underlying state criminal proceeding, he may not challenge the propriety of those proceedings in
11 a 42 U.S.C. § 1983 lawsuit. Federal courts will not intervene in a pending criminal proceeding
12 absent extraordinary circumstances where the danger of irreparable harm is both great and
13 immediate. *See Younger v. Harris*, 401 U.S. 37, 45, 46 (1971). The *Younger* abstention doctrine
14 requires that a district court dismiss a federal action if state proceedings are (1) ongoing, (2)
15 implicate important state interests, and (3) afford the plaintiff an adequate opportunity to raise
16 the federal issue. *Columbia Basin Apartment Ass’n v. City of Pasco*, 268 F.3d 791, 799 (9th Cir.
17 2001) (citation omitted). All of the *Younger* criteria appear to be satisfied here. The proceedings
18 are ongoing, involve a criminal prosecution that implicates important state interests, and there is
19 nothing to indicate that Mr. Alton cannot raise in his criminal case the same claims he raises here
20 or that there is a danger of great and immediate irreparable harm. Therefore, it appears that this
21 action would unduly interfere with the state criminal proceeding in a way *Younger* disapproves
22 and it should be dismissed.

1 **C. Conditions of Confinement at SCC**

2 With regard to Mr. Alton's remaining claim, that the SCC will not provide him with
3 outside counseling to help in his defense, Mr. Alton has failed to state a claim for relief under §
4 1983. To the extent Mr. Alton is seeking a mental health evaluation as to his criminal
5 proceedings he must seek relief in those proceedings. To the extent Mr. Alton is claiming that he
6 is being denied mental health care at the SCC, he has failed to allege facts sufficient to allow the
7 Court to determine whether he has stated a claim. Mr. Alton was given an opportunity to file an
8 amended complaint to set out these allegations more fully, including: (1) the constitutional right
9 he believes was violated; (2) the name of the person or persons who violated the right; (3)
10 exactly what that person(s) did or failed to do; (4) how the action or inaction of that person(s) is
11 connected to the violation of plaintiff's constitutional rights; and (5) what specific injury plaintiff
12 suffered because of that person(s)'s conduct. See *Rizzo v. Goode*, 423 U.S. 362, 371-72 (1976).
13 Despite being given an opportunity to set out these allegations, Mr. Alton has failed to do so.
14 Accordingly, this claim may be dismissed without further leave to amend.

15 **CONCLUSION**

16 Mr. Alton was granted leave to file an amended complaint to cure the deficiencies of his
17 original complaint. His amended complaint suffers from similar deficiencies. Accordingly, the
18 Court recommends that this action be **DISMISSED without prejudice for failure to state a**
19 **claim.** A proposed order accompanies this Report and Recommendation. Any objections to this
20 Recommendation must be filed by **Monday, June 19, 2017**. The Clerk should note the matter
21 for **Tuesday, June 21, 2017** as ready for the District Judge's consideration if no objection is
22 filed.
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1 If plaintiff files an objection, he must note the matter for the Court's consideration 14
2 days from the date the objection is filed and served. Objections shall not exceed seven (7) pages.
3 The failure to timely object may affect the right to appeal.

4 DATED this 31st day of May, 2017.

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6 BRIAN A. TSUCHIDA
7 United States Magistrate Judge
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